IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

OP.No. 25617 of 1998(Y)

PETITIONERS:

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1. **G.SOMASUNDARAN PILLAI, GENERAL SECRETARY, INSURANCE MEDICAL SERVICES STAFF UNION, REGIONAL DEPUTY DIRECTORATE, INSURANCE MEDICAL SERVICE , KOLLAM.**

2. **DR.A.GOPALAKRISHNA, INSURANCE MEDICAL OFFICER GRAD II (AYURVDEDA), E.S.I. DISPENSARY, PALAKKAD.**

3. **DR.T.K.GIRIJADEVI, INSURANCE MEDICAL OFFICER GR.II (HOMOEO), E.S.I. DISPENSARY, PAPPINISSERY, KANNUR DISTRICT.**

4. **DR.T.PRABHAKARAN NAIR, INSURANCE MEDICAL OFFICER GR.II (HOMOEO), E.S.I DISPENSARY, KOTTIYAM, KOLLAM DISTRICT.**

BY ADV. SRI.C.P.SUDHAKARA PRASAD (SR.)
SRI.S.RAMESH
SRI.P.N.SANTHOSH
SRI.S.D.ASOKAN
SRI.ELVIN PETER P.J.

RESPONDENTS:

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1. **STATE OF KERALA, REP.BY THE CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR, INSURANCE MEDICAL SERVICES, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.45035/1998 IN OP. 25617/1998

DISMISSED

6.3.2007 **SD/- S.SIRI JAGAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE COMMUNICATION ISSUED BY THE SECRETARY, CENTRAL COUNCIL OF HOMOEOPATHY, GOVERNMENT OF INDIA DT.13.3.90.

EXT.P2:- COPY OF THE COMMUNICATION SENT BY THE CENTRAL GOVERNMENT TO ALL HEALTH SECRETARIES OF THE STATES DT.3.1.91.

EXT.P3:- COPY OF THE GO(MS) NO.882/96/(115)/FIN. DT.7.11.96 ISSUED BY THE 1ST RESPONDENT.

EXT.P4:- COPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITIONER UNION TO THE 2ND RESPONDENT AND OTHERS DT.15.7.97.

EXT.P5:- COPY OF THE GO(Rt) NO.2349/98/ LBR DT.29.7.98 ISSUED BY THE 1ST RESPONDENT.

/TRUE COPY/

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S. SIRI JAGAN, J.

O.P.NO. 25617 OF 1998

DATED THIS THE 6th DAY OF MARCH, 2007

JUDGMENT

The 1st petitioner is the General Secretary of the Insurance Medical Services Staff Union and the petitioners 2,3 and 4 are Insurance Medical Officers Gr.II (Ayurveda) and Insurance Medical Officers Gr.II (Homoeo) in the Insurance Medical Services Department of the Government of Kerala. They are, in this original petition voicing a grievance of discrimination between the Assistant Insurance Medical Officers(Allopathy) on the one hand and the Assistant Medical Officers (Ayurveda & Homoeo) on the other hand, in the matter of granting of 10 years' and 20 years' higher grade for Assistant Insurance Medical officers. The petitioners would contend that there is parity in scale of pay at the time of entry into service for the Assistant Medical Officers (Allopahty) and Asst. Medical Officers (Ayurveda & Homoeo) and therefore the refusal to grant them 10 years' and 20 years' higher grade as applicable to the Asst. Medical Officers (Allopathy) is arbitrary and discriminatory. Their representations in this regard, Ext.P4 has been rejected by Ext.P5 order on the ground that there is vast difference among the three systems of medicine and fundamental difference in the curriculum and qualification. The petitioners are

challenging Ext.P5 order in this original petition and also seek a consequential relief for a direction to the respondents to extend the benefit of grade promotion to Asst. Medical Officers (Homoeo) and Asst. Medical Officers (Ayurveda) as in the case of the Asst. Medical Officers (Allopahty).

2. I have heard the learned counsel for the petitioners as also the learned Government pleader. Although no counter affidavit has been filed by the respondents, the Government pleader would support Ext.P5 order on the reasons mentioned therein. No doubt, the three systems of medicine have difference curriculum but now-a- days, the basic qualification for admission to the degree courses for all the three systems of medicine is the same. Admittedly, the scales of pay at the time of entry into service of Insurance Medical Officers in all the three systems is the same. In fact the Insurance Medical Officers have better avenues of promotion as Deputy Director and Director, which are not available to Asst. Insurance Medical Officers (Homoeo & Ayurveda). Since granting of higher grades is especially for the purpose of giving some relief to those employees, who have been stagnating in the same scale of pay for years together, I am of opinion that the attitude of the Government in Ext.P5 order is certainly arbitrary and discriminatory. In this connection, it is also to be noted that in the Homoeo Medical Department and the Ayurveda Medical Department, Medical Officers

do get higher grades on completion of 10 years' and 20 years' like other Government servants. When all other Government servants also do get this 10 years' and 20 years' higher grades, I am at a loss to understand why Asst. Insurance Medical Officer (Homoe & Ayurveda) alone should be treated differently. As such the petitioners have made out a very good case for consideration of their claim for granting of higher grades like any other Government servants, particularly Asst. Insurance Medical Officer (Allopathy).

3. In this connection I note that the designation of Asst. Insurance Medical Officers in Insurance Medical Services Department has been changed. In any event, in the above circumstances, I am not satisfied that Ext.P5 order is sustainable. Accordingly the same is quashed. The 1st respondent is directed to reconsider the matter in the light of observations made herein before and pass fresh orders in accordance with law as expeditiously as possible, at any rate within three months from the date of receipt of a copy of this judgment.

The original petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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